

Court of Appeals, State of Michigan

ORDER

Estate of Anna VanFleteren v Henry Ford Health Systems

Docket No. 309256

LC No. 11-011534-NH

Karen M. Fort Hood
Presiding Judge

Michael J. Talbot

Christopher M. Murray
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The motion to waive the transcript is GRANTED.

The motion to strike plaintiff's exhibits 1 and 2 is GRANTED.

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the March 21, 2012, order of the Wayne Circuit Court granting plaintiff's motion to compel the discovery of defendant's internal protocols hereby is REVERSED. Defendant's internal protocols are not admissible at trial, see *Gallagher v Detroit-Macomb Hosp Ass'n*, 171 Mich App 761; 431 NW2d 90 (1988) and *Jilek v Stockson*, 289 Mich App 291, 316-317; 796 NW2d 267 (2010) (BANDSTRA, J., dissenting), rev'd 490 Mich 961 (2011) (reversing on the basis of *Gallagher* as stated in the dissenting opinion in the Court of Appeals), and plaintiff simply has not shown how the internal protocols would lead to the discovery of admissible evidence regarding the standard of care and the breach of that standard. The case is REMANDED to the circuit court for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

APR 02 2012

Date


Chief Clerk